

**STATEMENT OF
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TO THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
HELPING THOSE LEFT BEHIND:
ARE WE DOING ENOUGH FOR PARENTS, SPOUSES AND CHILDREN OF
VETERANS?**

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Mr. Chairman and Members of the Subcommittee:

Thank you for giving The American Legion the opportunity to submit its views on the topic of "Helping Those Left Behind: Are We Doing Enough for the Parents, Spouses and Children of Veterans?"

It should first be mentioned that there is nothing the nation can do to replace the lives of our heroes who fall as a result of their service to our country. Acknowledging this at the outset should set the tone of the discussion, that tone being one of profound gratitude, sorrow and respect for the service member and those they leave behind. Many words to that effect have been spoken in the past, the most well known probably being those words from President Lincoln's Second Inaugural Address which culminate in the words that have rightfully become the mission statement of the Department of Veterans Affairs (VA), *"to care for him who shall have borne the battle, and for his widow. and his orphan..."* The former, and less quoted section of that address is fulfilled by this Subcommittee's hearing today, *"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in..."*

Whether a veteran dies as a result of war, or non-combat injuries incurred in service, America should remain steadfast in its goal to properly provide and honor those who served by caring for those left behind. Caring for the parents, spouses and children of veterans is part of the continuing costs of war and the continual defense of freedom.

The American Legion applauds the many VA programs currently in place for survivors including; Dependency and Indemnity Compensation (DIC), Survivors' and Dependents' Educational Assistance (DEA), Death Pension, Work-Study Employment, Home Loan Guaranty, Burial Benefits (Headstones, Markers. Presidential Memorial Certificates), Vet Center Bereavement Counseling, Vocational Rehabilitation and Employment (VR&E) Services, and Education Program Refunds.

Improve the Disability and Death Pension Program

After careful study, The American Legion has concluded that certain inequities exist in the pension program for survivors. Under the current Death Pension program, the annual benefit rate for a surviving spouse with no income and no dependents is \$7,329 or about only two-thirds of the amount received by a veteran with no income and no dependents. In addition, current regulations provide that surviving spouses are not entitled to pension benefits for the month in which the veteran dies, if they are found eligible for death pension. The American Legion recommends that pension rates of surviving spouses be established at 90 percent of the rate for a veteran without dependents and that spouses become immediately eligible to receive benefits the same month a veteran dies.

Under the current Death Pension program, the annual benefit rate for a surviving child with no income where there is no surviving spouse is \$1,866 or 17 percent of the amount received by a veteran with no income or dependents. This limited amount may impose a severe financial hardship on the surviving child or children. Under title 38, United States Code, section 1543 where the surviving child is residing with a person who is legally responsible for such child's support, the income and corpus of estate of that person is countable for the purposes of determining entitlement or continued entitlement to pension benefits. The American Legion recommends establishing the pension rate for a surviving child, where there is no surviving spouse, entitled at 90 percent of the rate of a veteran without dependents and to delete the requirement that the income and corpus of estate of a person legally responsible for the support of a surviving child be counted in the determination of annual income of such child.

Currently, when two veterans are married to one another where both meet the disability, service and income requirements, basic pension benefits are payable only at the rate of a "veteran with one dependent," which is currently \$14,313 annually. The American Legion believes that since each veteran in their own right meets the eligibility criteria for pension with the exception of being married to another veteran, this discriminatory provision of the law should be eliminated and each veteran should be paid at the basic pension rate of a single veteran without dependents which is \$10,929, reduced by the amount of countable family income.

In the determination of annual income, payments under all Government Life Insurance programs are countable, but proceeds from fire and casualty insurance policies may be excluded. Previous pension programs have excluded the proceeds of Government Life Insurance Policies in the determination of annual income. The American Legion recommends determination of annual income payments exclude all proceeds from Government Life Insurance policies.

Finally, the effective date of reduction or discontinuance of pension based on a change of income is the last day of the month in which the change occurred. The American Legion believes it would lessen the financial hardship of such adjustments to pension if any such change would be made as of the last day of the calendar year in which the change occurred.

Restore And Increase Burial And Plot Allowance

The National Cemeteries Act (Public Law 95-73) enacted in 1973 established a burial allowance of \$250 for eligible wartime veterans, and a \$1,500 burial allowance for veterans who died of a service-connected condition. The Omnibus Reconciliation Act of 1990 limited the payment of the burial plot allowance of \$150, which was previously paid to all honorably discharged wartime veterans, to only those veterans who are indigent or who are in receipt of VA disability compensation or pension. Although there have been subsequent increases in the allowances, the infrequent incremental increases have meant that the current \$300 burial plot allowance and respective \$300 and \$2,000 burial allowances have not kept pace with inflation and increases in the cost of living throughout the years. Today in the United States, the average cost of a burial plot is more than \$4,000, and with additional expenses, such as embalming and a casket, the total cost for a funeral and an in-ground burial, according to a survey of burial costs conducted by the American Association of Retired Persons (AARP), can easily reach \$10,000.

The American Legion urges Congress to make the following changes:

1. Return the burial allowances and burial plot allowance to all veterans who served during a time of war or conflict.
2. Increase, from \$300 to \$1,135, the burial allowance for veterans now eligible under 38 United States Code (USC) §§ 2302 and 2303.
3. Increase, from \$2,000 to \$3,712, the burial allowance for veterans who died as a result of a service-connected condition as set forth in 38 USC § 2307.
4. Increase the burial plot allowance from \$300 to \$670.
5. Require VA to annually adjust burial allowances and burial plot allowance for inflation by tying the increased allowances to the Consumer Price Index.

Reduce the Number of Years of 100 Percent Service Connection Required for Dependency and Indemnity Compensation Purposes

Title 38, United States Code, section 1318 provides that DIC shall be payable as if the veteran's death were service-connected, if at the time of death, the veteran has been rated continuously as totally disabled for a period of 10 years or more.

The 10-year rule, although a longstanding policy, is an arbitrary length of time. It is intended to recognize the fact that the veteran's severe level of service-connected disability over a period of years has significant impact on the economic welfare and well-being of the veteran and his or her family. If this situation persists for 10 years or more and the veteran dies of any cause, the family will continue to receive VA financial assistance through the DIC program. However, many veterans in this disability category, because of age and general ill health, die of causes not directly attributable to their service-connected condition before their total rating has been in effect for 10 years. This can leave the family in dire economic circumstances.

The American Legion seeks to protect the families of these severely service-disabled veterans by having the time limit for DIC entitlement reduced from 10 years to 5 years. Such a change would be consistent with the DIC policy currently in place for those continuously rated totally disabled from the date of military discharge for at least five years immediately preceding death.

Eliminate the bar to DIC benefits of surviving spouses who remarry after the age 55.

Public Law 108-83 provided that DIC benefits would not be terminated if the surviving spouse remarried at age 57. Congress used age 57 as a "budget savings" tool rather than opting for age 55. The American Legion and VA have supported legislation to remove the remarriage penalty for those surviving spouses aged 55 or older who would otherwise have been entitled to DIC. This would better align DIC benefits with benefits provided to surviving spouses of military retirees under the Department of Defense's Survivor Benefit Plan, which uses age 55, and to surviving spouses under Social Security, which uses age 60.

The American Legion urges Congress to examine removing the bar on the payment of Dependency and Indemnity Compensation benefits to surviving spouses who remarry after age 55.

Eliminating the SBP/DIC Offset

Survivors of a military retiree are sometimes entitled for both the DoD's Survivor Benefit Plan (SBP) and VA Dependency and Indemnity Compensation (DIC). SBP is similar to a life insurance program that is paid whether or not the death is service related. DIC is a flat rate monthly payment available only to the survivors of veterans whose death is service related. When survivors are eligible for both SBP and DIC, one dollar of SBP benefit is offset by every dollar of DIC benefit. There is a clear difference in structure and intent between the two programs thereby making it unfair to offset the two programs.

The American Legion urges this Subcommittee to work with the Armed Services Committee in eliminating the SBP/DIC offset.

In conclusion, The American Legion believes that we, as Americans, need to continually update and improve on the way we "*[to] care for him who shall have borne the battle, and for his widow, and his orphan...*" Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present The American Legion's view on this issue. This concludes my testimony.